IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Bail Appl..No. 4228 of 2007()

CRIME NO.159/2007 OF ALAKODE POLICE STATION, KANNUR DISTRICT

.....

PETITIONER/ACCUSED NO.4

K.P.KUNHIKANNAN,
SUB REGISTRAR(RTD), S/O P.T.K.NAMBIAR,
AGED 58 YEARS, THUMBOTTU P.O.,
KADANNAPPALLY, KANNUR DISTRICT.

BY ADV. SRI.P.BABU

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4228 of 2007

Dated this the 12th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner is the fourth accused. Crime has been registered against five accused persons including the petitioner on the basis of a private complaint filed by the defacto complainant - manager of a bank before the learned Magistrate, which complaint was referred to the police under Section 156(3) Cr.P.C.

2. The crux of the allegations, submits the learned Public Prosecutor is that the first accused had approached the bank to raise a loan. He had produced a partition deed to show the title of an item of property. Encumbrance certificate was also obtained and produced before the bank. A liability was created on the strength of the said property. The loan amount was not repaid. It is alleged that subsequent to the creation of the loan, the first accused had sold the property, offered as security, to various other persons. This was allegedly done by him with fraudulent and objectionable motives. The petitioner is the Sub Registrar. The allegation against him is that he is a party to the registration of such post-pledge documents to various persons by the first accused.

3. The learned counsel for the petitioner submits that the allegations, even if accepted in toto, cannot at all, indicate any complicity of the petitioner. When the title holder, who has pledged the property, decides to sell the property to some others, the Registrar has no obligation to prevent such registration, submits the learned counsel for the petitioner. In these circumstances, directions under Section 438 Cr.P.C may be issued to save the petitioner of the undeserved trauma of arrest and incarceration in prison, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor does not oppose the prayer for anticipatory bail. He only prays that appropriate directions may be issued to ensure that an efficient and expeditious investigation is conducted.

5. I am satisfied in the circumstances of this case that directions under Section 483 Cr.P.C can be issued in favour of the petitioner. Appropriate conditions can, of course, be imposed.

6. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 19/7/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only)

with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 1 p.m on 20/07/2007 and thereafter as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 19/7/2007, he shall be released on bail on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 19/7/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007